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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,910	03/18/2004	Chiho Fukunari	500.43661X00	5413
20457 7590 04/15/2008 ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873			EXAMINER LEE, KWOK W	
			ART UNIT 2195	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/802,910	Applicant(s) FUKUNARI ET AL.	
	Examiner KWOK W. LEE	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>20080403</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. Claims 1-10 are pending in this application.

Drawings

2. The drawing is objected to because figure 13 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 9 and 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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5. As per claim 9 the preamble is directed to apparatus claims, but appearing to be comprised of software alone without claiming associated computer hardware required for execution. For example, claim 9 recited a monitoring item acquiring unit, a browse screen display time adjusting unit and a integrated monitor screen data generating unit are all software modules/functions. Software alone is directed to a non-statutory subject matter. Applicant is suggested to make the following change:

Line 1, insert after "system", -- running on a computer, --.

6. As per claim 10 is rejected under 35 U.S.C. 101 because the program is not stored in the computer-readable medium, to be executed by a computer. Applicant is suggested to make the following changes:

Line 1, replace "having" with -- storing --;

Line 2, remove "provided thereon".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-3, 6, 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Watanabe et al (US 2003/0233387).

9. The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

10. As per claim 1, Watanabe et al teaches the invention as claimed including a job status monitoring method of monitoring statuses of jobs executed on a computer (Paragraph [0089]), comprising the steps of:

acquiring schedule information (Paragraph [0009]) indicating a schedule of execution of a job and pre-setting (Paragraph [0037] an item of execution monitoring start date and time indicating a date and time to start monitoring the job and an item of execution monitoring end date and time indicating a date and time to finish monitoring the job (Paragraph [0103] and see figure 8);

selecting, when a pre-set browsing time zone represented by an item of a pre-set browsing start date and time indicating a day and a point of time to start browsing a monitored status and an item of a pre-set browsing end date and time indicating a date

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and time to finish browsing a monitored status overlaps with a pre-set monitoring time zone represented by the execution monitoring start date and time and the execution monitoring end date and time, a job to which the execution monitoring start date and time and the execution monitoring end date and time are specified and setting the job as a monitoring item to be monitored (Paragraphs [0091]-[0092] and see figure 5); and creating monitor screen data to display a monitored status of the job selected as the browsing item (paragraph [0044]).

11. As per claim 2, Watanabe et al teaches the invention as claimed comprising the step of pre-setting the execution monitoring start date and time item and the execution monitoring end date and time item using the execution start schedule date and time item of a job and a execution result time obtained from a result of execution of the job (Paragraph [0135], lines 9-15 and paragraph [0136, lines 7-12).

12. As per claim 3, Watanabe et al teaches the invention as claimed comprising the step of pre-setting the execution monitoring start date and time item and the execution monitoring end date and time item by adding a predetermined period of time before and after a time zone between the execution start schedule date and time of the job and a point of time obtained by adding a execution result time of the job to the execution start schedule date and time (Paragraph [0128] and paragraph [0136], lines 7-12).

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13. As per claim 6, Watanabe et al teaches the invention as claimed comprising the step of calculating, using a relationship between the execution result time obtained as results of execution of the job and the rate of operation of a computer executing the job, an execution time optimal value indicating a period of time required to execute the job at the rate of operation (Paragraph [0135], lines 9-15 and paragraph [0136, lines 7-12).

14. As per claims 9 and 10, they're system and computer-readable medium claims of claim 1, respectively; therefore, they're rejected for the same reason as claim 1.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al (US 2003/0233387) in view of Oulu et al (US 6,792,460).

17. As per claim 4, Watanabe et al does not teach the step of pre-setting the predetermined period of time using a rate of operation of a computer executing the job and a number of abnormal terminations of the job.

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18. The Oulu reference teaches a application monitoring system for evaluating the performance of web-based or other software applications executed by an application server and the parameters of evaluating performance includes transaction response time and transaction pass/fail status (Column 4, lines 55-67).

19. It would have been obvious at the time of the invention was made to a person having ordinary skill in the art to which said subject matter pertains to have included a step in Watanabe et al to include monitoring analysis of job performance and failures so a user can set the predetermined period of time to compensate for slow job responses. The motivation comes from the desirability of being able to determine if there are certain jobs with long response times so that the monitor time window can be set to a predetermined time to monitor the whole job to compensate for those that take a long time (Oulu Column 9, lines 44-54).

20. As per claim 5, Watanabe et al does not teach the step of obtaining a mean value of values of execution result time obtained as results of execution of the job.

21. The Oulu reference teaches a application monitoring system that generates reports for monitored transactions containing averages of various types of transaction execution values (Column 9, lines 8-33).

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22. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al (US 2003/0233387) and Oulu et al (US 6,792,460) further in view of Yamamoto et al (US 2002/0032839).

23. As per claim 7, Watanabe et al and Oulu et al do not teach the steps of: correcting information of the date and time using a time difference between a browsing location at which the monitored status is browsed and an execution location at which the job is executed; and selecting a browsing item using the information corrected in the preceding step.

24. The Yamamoto reference teaches a web browser cache mechanism that corrects for time zone differences in time information such as date/time of check of browse information (Paragraph [0078] lines 24-27).

25. It would have been obvious at the time of the invention was made to a person having ordinary skill in the art to which said subject matter pertains to have modified the cutting machine monitoring system with the modifications as discussed above, further including a correcting means to correct for time zone differences between a browsing location and an execution location. The motivation comes from the problem of time zone conflicts, where a browsing location and an execution location will not always be necessarily be in the same area or country (Yamamoto, paragraph [0078] lines 24-27). A time specified in one part of the world, for example 2PM, is different from another part

of the world, as being 2AM. Therefore it is necessary to correct for the time-difference in order to get the desired results.

26. As per claim 8, Watanabe et al does not teach the step of displaying, when an event indicating an abnormal termination of the job is received, the monitored status of the job also after a point of time indicated by the execution monitoring end date and time of the job.

27. The Oulu reference teaches an application monitoring system where transaction performance, including transaction fail status, is monitored and stored in a central database to be viewed (Column 4, lines 55-67).

Response to Arguments

28. Applicant's arguments with respect to claims 1-3, 9 and 10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KWOK W. LEE whose telephone number is (571)270-3557. The examiner can normally be reached on Mon - Thu and alternate Fridays 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. W. L./

Examiner, Art Unit 2195


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